

ORDINANCE NO. 872

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BEAUMONT, STATE OF CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 93-1, AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN IMPROVEMENT AREA NOS. 19A THROUGH 19F OF COMMUNITY FACILITIES DISTRICT NO. 93-1

WHEREAS, the City Council of the City of Beaumont (respectively, the "City Council" and the "City") in 1993, duly adopted Resolutions establishing "City of Beaumont Community Facilities District No. 93-1" (the "Community Facilities District"), including twelve separate improvement areas, and authorizing the levy of special taxes to pay for certain public facilities in and for the Community Facilities District under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Code"); and

WHEREAS, the City Council on August 17, 2004, duly adopted Resolution No. 2004-45 declaring its intention to (i) annex certain property and establish Improvement Area Nos. 19A through 19F (each, an "Improvement Area") within the Community Facilities District, (ii) levy a Special Tax (the "Special Tax") for facilities and services pursuant to the Rate and Method of Apportionment of Special Tax for each Improvement Area (the "Rate and Method of Apportionment"), (iii) declare the necessity for incurring bonded indebtedness and (iv) call for preparation of a public report describing such matters (the "Public Report"); and

WHEREAS, notices were published as required by law relative to the intentions of the City Council as stated in said Resolution No. 2004-45; and

WHEREAS, pursuant to Resolution No. 2004-45, a public hearing was duly convened on September 21, 2004 and continued to November 16, 2004, at which the City Council considered the annexation of property and establishment of the Improvement Area, the levy of the Special Tax for Facilities and Services pursuant to the Rate and Method of Apportionment and the necessity for incurring bonded indebtedness and, at the above-mentioned time and place for such public hearing, all persons interested, including all taxpayers, property owners and registered voters within the Improvement Area were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the annexation of property and establishment of the Improvement Area, the levy of the Special Tax for Facilities and Services pursuant to the Rate and Method of Apportionment, the necessity for incurring bonded indebtedness, and any other matters set forth in said Resolution No. 2004-45, were heard and considered; and

WHEREAS, following such public hearing, the City Council duly adopted Resolution No. 2004-62 authorizing the annexation of such property and establishment of Improvement Area Nos. 19A through 19F within the Community Facilities District, the levy of a Special Tax pursuant to the Rate and Method of Apportionment, the necessity for incurring bonded indebtedness and other matters set forth in said Resolution No. 2004-62 and in the Public Report; and

WHEREAS, on November 16, 2004, an election was held within Improvement Area Nos. 19A through 19F in which the qualified electors of each Improvement Area approved, by more than a two-thirds vote, the proposition of levying the Special Tax pursuant to the Rate and Method of Apportionment, authorizing bonded indebtedness and other matters stated in said proposition; and

WHEREAS, bonded indebtedness and interest thereon will be payable from the Special Tax levied and collected in each Improvement Area in accordance with and subject to the maximum rates applicable thereto; and

WHEREAS, the City Council is fully advised in the premises;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES ORDAIN AS FOLLOWS:

Section 1. All of the above recitals are true and correct.

Section 2. By the passage of this Ordinance, the City Council authorizes the levy of the Special Tax within Improvement Area Nos. 19A through 19F pursuant to the Rate and Method of Apportionment approved by Resolution No. 2004-62, which is hereby incorporated by reference herein, and, with respect to Improvement Area Nos. 19E and 19F, in accordance with that certain Bond Sale Limitation Agreement (the "Bond Sale Limitation Agreement") dated as of November 1, 2004 among the City, the Community Facilities District and Oak Valley Partners, LP, a Texas limited partnership, and by an affirmative vote of the qualified electors within the respective Improvement Areas.

Section 3. The City Council is hereby further authorized each year by Resolution to determine the specific special tax rate and amount to be levied for the next fiscal year within each Improvement Area, except that the special tax rate to be levied shall not exceed that set forth in the Rate and Method of Apportionment, but the Special Tax may be levied at a lower rate.

Section 4. Properties or entities of the State, federal, or other local governments shall, except as provided in Sections 53317.3, 53317.5, and 53340.1 of the Act, be exempt from the above-referenced and approved special tax.

Section 5. All of the collections of the Special Tax in each Improvement Area shall be used as provided for in the Act and proceedings conducted by the Community Facilities District for the respective Improvement Area. The Special Tax shall be levied only so long as needed for its purpose as described in said Resolution.

Section 6. The above authorized Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* taxes, as such procedures may be modified by law or by the City Council from time to time.

Section 7. As a cumulative remedy, if any amount levied pursuant hereto as a Special Tax for payment of bond interest or principal together with any penalties and other charges accruing under this Ordinance are not paid when due, the City Council may, not later than four years after the due date of the last installment of principal, order that the same be collected by an action brought in the superior court to foreclose any lien therefor.

Section 8. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard, and this Ordinance shall take effect thirty (30) days after its final passage.

Section 9. This Ordinance shall be in full force and effect thirty (30) days after its final passage in accordance with the provisions of Section 36937 of the Code, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Act.

MOVED AND PASSED upon first reading this 16th day of November, 2004 by the following roll call vote:

AYES: Mayor Dressel, Council Members Berg, DeForge, Dressel, and Killough.

NOES: None

ABSTAIN: None

ABSENT: None

MOVED, PASSED AND ADOPTED this 7 day of December, 2004 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor of the City of Beaumont

ATTEST:

Deputy City Clerk

CERTIFICATION

The foregoing is certified to be a true copy of Ordinance No. 872 duly introduced at a regular meeting of the City Council held on November 16, 2004, and was duly adopted upon a second reading on December 7, 2004 by the roll call votes indicated therein.

Deputy City Clerk, City of Beaumont

(SEAL)